

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Chief Financial Officer

Natwar M. Gandhi
Chief Financial Officer



MEMORANDUM

TO: The Honorable Linda W. Cropp
Chairman, Council of the District of Columbia

FROM: Natwar M. Gandhi
Chief Financial Officer

DATE: July 10, 2001

SUBJECT: Fiscal Impact Statement: "Office of Employee Appeals
Attorney Fees Clarification Amendment Act of 2001"

REFERENCE: Bill Number 14-29

Conclusion

Funds are not sufficient in the District's FY 2002 through FY 2005 budget and financial plan to conduct the activities in the proposed legislation. **Unbudgeted funds totaling approximately \$400,000 will be required to implement the provisions of this legislation in FY 2002.** The funds will be necessary in FY 2002 only, as expenditures are one-time and non-recurring.

The above estimate assumes an average per case cost of \$40,000 for attorney fees and a maximum of ten eligible cases. However, should more concrete case information become available, the fiscal impact could be substantially more.

Anti-deficiency laws, 31-USCA § 1341 (2000), prohibit District officers and employees from exceeding agency appropriations in any fiscal year. Should the District determine that funding is available to absorb the \$400,000 in additional costs in FY 2002, then the net fiscal impact would be zero for that year.

Background

The proposed legislation authorizes the Office of Employee Appeals (OEA) to require payment by the affected agency of reasonable attorney fees, to be applied retroactively, in cases for which attorney fees were not awarded. The proposed legislation covers approximately eighteen months during which time the Office lacked jurisdiction to award

attorney fees. The Office determined that it lacked jurisdiction to award attorney fees to employees who were hired after January 1, 1980. The Council of the District of Columbia enacted legislation, effective May 15, 1990, that gave OEA jurisdiction to award attorney fees. The legislation applies to appeals filed after May 15, 1990 as well as those filed prior to May 15, 1990 if the appeal had not yet proceeded to a hearing as of that date.

The Office of Employee Appeals awards attorney fees in accordance with the applicable statutes and case law. However, attorney fees are not paid from OEA's budget. Attorney fees are paid from the budget of the agency that employed the petitioner.

Financial Plan Impact

The proposed legislation impacts approximately ten petitions for attorney fees that were denied more than thirteen years ago. The case files for those petitions for attorney fees were purged prior to OEA's relocation from 415 12th Street, NW to 717 14th Street, NW, in 1998. Consequently, OEA must estimate the potential cost to the District should the proposed legislation pass.

OEA has determined that one of the petitions for attorney fees filed during the time designated by the legislation amounts to \$40,000. Assuming an average per case amount of \$40,000, the total net fiscal impact to the FY 2002 budget and financial plan for ten cases will be approximately \$400,000. This cost would be incurred by the agencies against which the employee filed the appeal.

No additional staff will be necessary to implement the provisions of the proposed legislation. The table below shows the financial impact of the proposed legislation for FY 2002 through FY 2005.

Net Impact to the Financial Plan FY 2002 through FY 2005					
(\$ in 000s)					
Item	FY 2002	FY 2003	FY 2004	FY 2005	TOTAL
Net Annual Impact	\$400	\$0	\$0	\$0	\$400